

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMES R. SCHULTZ,

Plaintiff,

v.

BRADLEY HOOVER and
KENNETH MILBECK,

Defendants.

ORDER

10-cv-581-bbc

Judgment was entered in this case on May 5, 2012 in favor of defendants, granting their motion for summary judgment and closing this case. In an order entered on June 18, 2012, I denied plaintiff's motion for reconsideration. Now plaintiff has filed a notice of appeal. Because plaintiff has not paid the \$455 fee for filing an appeal, I construe his notice as a request for leave to proceed in forma pauperis on appeal.

Plaintiff's request is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether plaintiff's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Plaintiff does not have three strikes against him and I do not intend to certify that his appeal is not taken in good faith.

However, I cannot tell whether plaintiff qualifies for indigent status on appeal because he has not submitted a trust fund account statement for the six-month period immediately

preceding the filing of his notice of appeal. Therefore, I will stay a decision on plaintiff's request for leave to proceed in forma pauperis pending his submission of the necessary trust fund account statement.

One additional matters deserve mention. Plaintiff asks the court to appoint counsel to represent him on appeal. Because proceedings before this court have concluded, this court lacks authority to appoint counsel for plaintiff on appeal. Plaintiff should direct his request to the Court of Appeals for the Seventh Circuit.

ORDER

IT IS ORDERED that a decision whether plaintiff James Schultz may proceed in forma pauperis on appeal is STAYED. Plaintiff may have until July 31, 2012 in which to submit a trust fund account statement for the six-month period beginning approximately December 27, 2011 and ending approximately June 27, 2012. If, by July 31, 2012, petitioner fails to submit the necessary trust fund account statement, I will deny his request for leave to proceed in forma pauperis on appeal for his failure to show that he is entitled to indigent status on appeal.

Entered this 6th day of July, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge